

all officers and employees of the Department, including officers and employees of the various Operating Divisions and Regional Offices of the Department, charged with the collection and disposition of debts owed to the United States.

(2) The standards and procedures set forth in this part will be applied except where specifically excluded herein or where a statute, regulation or contract prescribes different standards or procedures.

(3) Regulations governing the use of certain debt collection procedures created under the Debt Collection Improvement Act of 1996, including tax refund offset, administrative wage garnishment, and Federal salary offset, are contained in parts 31 through 33 of this chapter.

### § 30.2. Definitions.

In this part—

*Administrative offset* means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt.

*Agency* means a department, agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Government, including Government corporations.

*Appropriate official* means the Department official who, by statute or delegation of authority, determines the existence and amount of debt.

*Business day* means Monday through Friday. For purposes of computation, the last day of the period will be included unless it is a Federal holiday, in which case the next business day following the holiday will be considered the last day of the period.

*Claim* see the definition for the term “debt.” The terms “claim” and “debt” are synonymous and interchangeable.

*Creditor agency* means an agency to which a debt is owed, including a debt collection center acting on behalf of a creditor agency.

*Day* means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, Sunday, or a Federal holiday, in which case the next business day will be considered the last day of the period.

*Debt or claim* means an amount of funds or other property determined by an appropriate official of the Federal Government to be owed to the United States from any person, organization, or entity, except another Federal agency. For the purpose of administrative offset, the term includes an amount owed by an individual to a State, the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico. Debts include, but are not limited to, amounts owed pursuant to: Loans insured or guaranteed by the United States; fees; leases; rents; royalties; services; sales of real or personal property; Federal salary overpayments; overpayments to program beneficiaries, contractors, providers, suppliers, and grantees; audit disallowance determinations; civil penalties and assessments; theft or loss; interest; fines and forfeitures (except those arising under the Uniform Code of Military Justice); and all other similar sources.

*Debt collection center* means the Department of the Treasury, or other Federal agency, subagency, unit, or division designated by the Secretary of the Treasury to collect debts owed to the United States.

*Debtor* means an individual, organization, association, partnership, corporation, or State or local government or subdivision indebted to the Government, or the person or entity with legal responsibility for assuming the debtor's obligation.

*Debts arising under the Social Security Act* are overpayments to, or contributions, reimbursements, penalties or assessments owed by, any entity, individual, or State under the Social Security Act. Such amounts include amounts owed to the Medicare program under section 1862(b) of the Social Security Act. Salary overpayments and other debts that result from the administration of the provisions of the Social Security Act are not deemed to “arise under” the Social Security Act for purposes of this part.

*Delinquent debt* means a debt which the debtor does not pay or otherwise

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resolve by the date specified in the initial demand for payment, or in an applicable written repayment agreement or other instrument, including a post-delinquency repayment agreement.

*Department* means the Department of Health and Human Services, and its Operating Divisions and Regional Offices.

*Disbursing official* means an officer or employee who has authority to disburse public money pursuant to 31 U.S.C. 3321 or another law.

*Disposable pay* means that part of the debtor's current basic, special, incentive, retired, and retainer pay, or other authorized pay, remaining after deduction of amounts required by law to be withheld. For purposes of calculating disposable pay, legally required deductions that must be applied first include: Tax levies pursuant to the Internal Revenue Code (title 26, United States Code); properly withheld taxes, FICA, Medicare; health and life insurance premiums; and retirement contributions. Amounts deducted under garnishment orders, including child support garnishment orders, are not legally required deductions for calculating disposable pay.

*Evidence of service* means information retained by the Department indicating the nature of the document to which it pertains, the date of mailing of the document, and the address and name of the debtor to whom it is being sent. A copy of the dated and signed written notice provided to the debtor pursuant to this part may be considered evidence of service for purposes of this part. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

*FMS* means the Financial Management Service, a bureau of the Department of the Treasury.

*Hearing* means a review of the documentary evidence to confirm the existence or amount of a debt or the terms of a repayment schedule. If the Secretary determines that the issues in dispute cannot be resolved by such a review, such as when the validity of the claim turns on the issue of credibility or veracity, the Secretary may provide an oral hearing. (See 45 CFR 33.6(c)(2) for oral hearing procedures

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that may be provided by the Secretary).

*IRS* means the Internal Revenue Service, a bureau of the Department of the Treasury.

*Late charges* means interest, penalties, and administrative costs required or permitted to be assessed on delinquent debts.

*Legally enforceable* means that there has been a final agency determination that the debt, in the amount stated, is due and there are no legal bars to collection action.

*Local government* means a political subdivision, instrumentality, or authority of any State, the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico, or an Indian tribe, band or nation.

*Operating Division* means each separate component, agency, subagency, and unit within the Department of Health and Human Services, including, but not limited to, the Administration for Children and Families, the Administration on Aging, the Centers for Disease Control and Prevention, the Centers for Medicare & Medicaid Services, the Food and Drug Administration, the National Institutes of Health, Substance Abuse and Mental Health Services Administration, Indian Health Service, Health Resources and Services Administration, Agency for Toxic Substances and Disease Registry, Agency for Healthcare Research and Quality, and the Office of the Secretary.

*OPM* means the Office of Personnel Management.

*Payment authorizing agency* means an agency that transmits a voucher to a disbursing official for the disbursement of public money.

*Payments made under the Social Security Act* means payments by this Department or other agencies to beneficiaries, providers, intermediaries, physicians, suppliers, carriers, States, or other contractors or grantees under a Social Security Act program, including: Title I (Grants to States for Old-Age Assistance for the Aged); Title II (Federal Old-Age, Survivors, and Disability Insurance Benefits); Title III (Grants to States for Unemployment

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Compensation Administration); Title IV (Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services); Title V (Maternal and Child Health Services Block Grant); Title IX (Miscellaneous Provisions Relating to Employment Security); Title X (Grants to States for Aid to the Blind); Title XI, part B (Peer Review of the Utilization and Quality of Health Care Services); Title XII (Advances to State Unemployment Funds); Title XIV (Grants to States for Aid to Permanently and Totally Disabled); Title XVI (Grants to States for Aid to the Aged, Blind, and Disabled); Title XVII (Grants for Planning Comprehensive Action to Combat Mental Retardation); Title XVIII (Health Insurance for the Aged and Disabled); Title XIX (Grants to States for Medical Assistance Programs); Title XX (Block Grants to States for Social Services); and Title XXI (State Children's Health Insurance Program). Federal employee salaries and other payments made by the Department or other agencies in the course of administering the provisions of the Social Security Act are not deemed to be "payable under" the Social Security Act for purposes of this part.

*Private collection contractors* means private debt collection under contract with the Department to collect a nontax debt or claim owed to the Department. The term includes private debt collectors, collection agencies, and commercial attorneys.

*Salary offset* means an administrative offset to collect a debt owed by a Federal employee through deductions at one or more officially established pay intervals from the current pay account of the employee without his or her consent.

*Secretary* means the Secretary of Health and Human Services, or the Secretary's designee.

*Taxpayer identification number* means the identifying number described under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109). For an individual, the taxpayer identifying number is the individual's Social Security Number.

*Tax refund offset* means withholding or reducing a tax refund payment by an amount necessary to satisfy a debt.

### **§ 30.3 Antitrust, fraud, exception in the account of an accountable official, and interagency claims excluded.**

(a) *Claims involving antitrust violations or fraud.* (1) The standards in this part relating to compromise, suspension, and termination of collection activity do not apply to any debt based in whole or in part on conduct in violation of antitrust laws, or to any debt involving fraud, presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim, unless the Department of Justice returns a referred claim to the Department for further handling in accordance with parts 31 CFR 900 through 904 and this part.

(2) Upon identification of a debt suspected of involving an antitrust violation or fraud, a false claim, misrepresentation, or other criminal activity or misconduct, the Secretary shall refer the debt to the Office of the Inspector General for review.

(3) Upon the determination of the Office of the Inspector General that a claim is based in whole or in part on conduct in violation of the antitrust laws, or involves fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim, the Secretary shall promptly refer the case to the Department of Justice for action.

(b) *Exception in the account of an accountable official.* The standards in this part do not apply to compromise of an exception in the account of an accountable official.

(c) *Interagency claims.* This part does not apply to claims between Federal agencies. The Department will attempt to resolve interagency claims by negotiation in accordance with EO 12146.

### **§ 30.4 Compromise, waiver, or disposition under other statutes not precluded.**

Nothing in this part precludes the Department from disposing of any claim under statutes and implementing regulations other than subchapter II of chapter 37 of Title 31 of the United States Code and the Federal Claims Collection Standards, 31 CFR parts 900